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Srivatsan Srinivas Iyer

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23455 7590 05/27/2010  
EXXONMOBIL CHEMICAL COMPANY  
5200 BAYWAY DRIVE  
P.O. BOX 2149  
BAYTOWN, TX 77522-2149

EXAMINER

KRUER, KEVIN R

ART UNIT

PAPER NUMBER

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### **Advisory Action**

Applicant's arguments filed 5/17/2010 have been fully considered but are not persuasive. Furthermore, the proposed amendment has not been entered because it is not deemed to place the application in better form for appeal by reducing and/or simplifying the issues on appeal. The amendment also raises issues that would require further search and/or consideration. The newly claimed range has not previously been considered. The proposed amendment also raises the issue of new matter as there is no support in the original disclosure for the newly claimed 28wt% endpoint. Furthermore, the proposed amendment has not been entered because it introduces new claims without canceling a corresponding number of finally rejected claims.

Applicant argues Tsurutani does not teach, disclose or suggestion a low crystallinity polymer having a melting point of from 20-110°C or high crystallinity polymer with a melting point 25°C higher than that of the low crystallinity polymer. The examiner respectfully disagrees for reasons of record. Specifically, Tsurutani teaches a composition comprising an amorphous propylene copolymer and a crystalline polypropylene. Since the polymers are compositionally identical to applicant's preferred polymers they are understood to meet said limitations. Furthermore, it is noted that the crystalline polypropylene of examples 1-4 has a melting point of 138°C (col 8, lines 55+) whereas the amorphous propylene has a glass transition temperature of -23°C (see <http://www.matweb.com/search/datasheet.aspx?matguid=a5c0f5d5f7154add87b2594db821487f&ckck=1>). Alternatively, it would have been obvious to select a low crystallinity polymer with the claimed melting point and the claimed difference in melting point from

the crystalline polymer in order to improve surface adhesivity. Applicant argues there is no teaching or suggestion in Tsurtani that adhesivity is a result effective variable related to the melting point of the low crystalline material. However, it is known in the art that melting point and heat seal temperature of such ethylene-propylene copolymers decrease with increasing ethylene content (see e.g., US 4,584,239; col 1, lines 38+). Thus, the skilled artisan would have known to decrease the melting point of the amorphous copolymer in order to improve its low temperature sealability (col 6, lines 56+).

Applicant further argues the thermal characteristics of the low crystallinity polymer occur in part due to the stereo-regularity imparted by using a single site metallocene catalyst. Said argument is noted but is not persuasive because it is not commensurate in scope with the claimed invention; there is no requirement the low crystallinity polymer is polymerized with a metallocene catalyst. Furthermore, it is unclear how said limitation would distinguish the claimed invention from the prior art.

For the reasons noted above, the rejection is maintained.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN R. KRUEER whose telephone number is (571)272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin R Krue/

Primary Examiner, Art Unit 1787